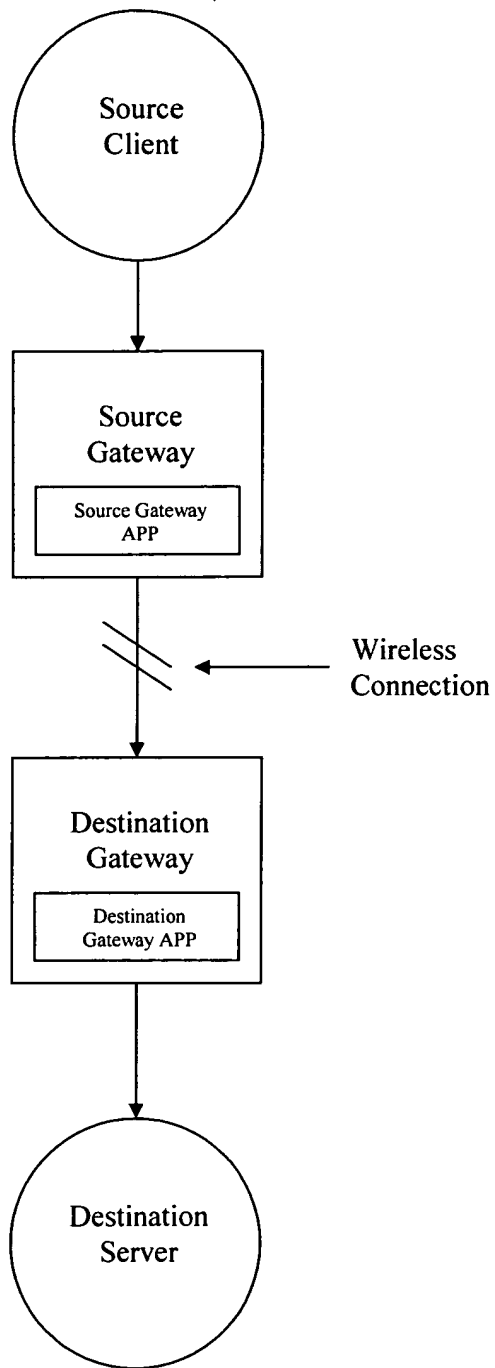


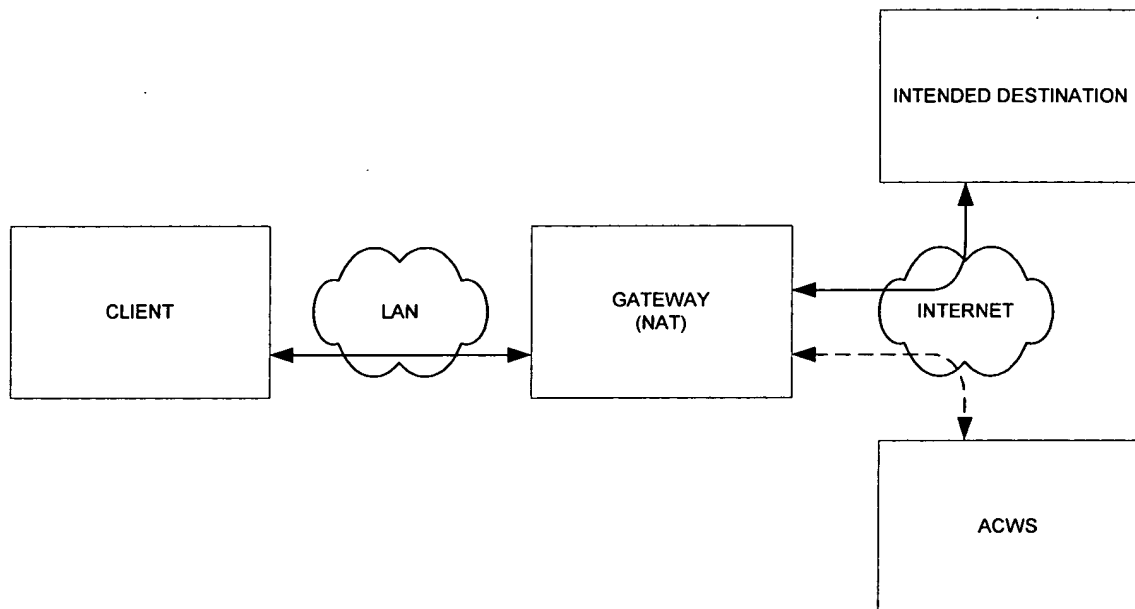
REMARKS

In this application, claims 1-33 are currently pending. Claims 1-33 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Pat. No. 6,415,329 to Gelman, Jr. et al. (hereinafter Gelman). Applicants submit that the pending claims are patentable for the reasons set forth hereinafter, and accordingly request reconsideration and withdrawal of the pending rejections.

In summary, Gelman teaches communication between a source client and a destination server through an intermediary source gateway and destination gateway. The source client communicates through a terrestrial connection to the source gateway by sending a packet using a first protocol, e.g. transmission control protocol (TCP). The source gateway translates the first protocol to a second wireless link protocol (WLP) and sends the packet to a destination gateway. The destination gateway converts the packet back to TCP and forwards it on to the destination server. The Gelman patent's objective through this process is to improve communication efficiency over a wireless or other high delay bandwidth environment (see Gelman col. 5 lines 32-35). A simplified diagram of the Gelman invention is presented below (see Gelman FIG. 1 for a similar figure consistent with the figure below):



Analyzing the Gelman reference, it is clear that a communication is transmitted along a singular path with each node in the path simply passing the communication onto the next node until it reaches its destination. Applicants' invention, however, involves redirection of a communication to an access controlling web server which communicates back to the gateway to either grant or deny access. Please direct your attention to Applicants' FIG. 3 for comparison. For the Office's convenience, a copy of Applicants' FIG. 3 is reproduced below without figure numbers:



The Applicants' invention is clearly distinct from Gelman because in the invention the packet is redirected to an access controlling web server that simply determines whether to grant access to the desired resource. The access controlling web server then sends a response to the gateway, which informs the gateway whether to allow or disallow access to the desired resource. Thus, a packet is sent to a node which does not forward the packet on to the next node in the communications chain, but instead sends a response back to the

gateway to command it to grant or deny access. As noted above, Gelman does not teach sending a packet outside the direct transmission path to determine whether to grant or deny access.

As stated in MPEP § 2131, “‘A claim is anticipated only if each and every element as set forth in the claim is found ... in a single prior art reference.’ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631.” Claim 1 is not anticipated under 35 U.S.C. § 102(e) by Gelman because each and every element of claim 1 is not taught by Gelman.

For your convenience, claim 1 is reproduced below:

1. A method of controlling at a gateway computing device access of a client machine to a desired resource hosted on a destination server, the desired resource being of at least one material type selected from the group including audible materials, readable materials, and viewable materials, comprising the steps of:

(a) at the gateway computing device receiving handshaking packets from the client machine having as a destination address the destination server;

(b) redirecting network communications at the gateway computing device, including the steps of:

redirecting the handshaking packets by rewriting the destination address in the handshaking packets' IP headers to route the packets to an access controlling web server that is remote from the client, the gateway, and the destination server;

receiving a content request packet from the client machine at the gateway destined for the destination server intended to retrieve the desired resource from the destination server; and

at the gateway redirecting the content request packet by rewriting the destination address in the packet IP header to route the packet to the access controlling web server;

(c) receiving a response at the gateway from the access controlling web server; and

(d) at the gateway, controlling access of the client machine to the desired resource based on the response from the access controlling web server, including refusing the client machine access to the desired resource if the response from the access controlling web server indicates that the client should not have access to the desired resource and granting the client machine access to the desired resource if the response from the access controlling web server indicates that the client should have access to the desired resource.

Regarding element (c), Gelman does not disclose an access controlling web server outside the direct path of communication that sends a response to the gateway, so Gelman cannot disclose a “receiving a response at the gateway from the access controlling web server” as required by claim 1. While Gelman discloses a gateway and a server as pointed out by the Office in col. 7 lines 10-38, the term server is defined in this same section of text as either of nodes 10 or 18 as shown in FIG. 1 of Gelman depending on which direction the communication is traveling. Thus, the server referred to in this section of Gelman is the destination server (see col. 7 lines 30-34), which clearly cannot be the access controlling web server of claim 1 because element (b) of claim 1 states that the “access controlling web server ... is remote from the client, the gateway, and the destination server.”

Moreover, as element (d) discloses, the gateway controls access to the desired resource based on the response from the access controlling web server. This is not taught by the automatic repeat request (ARQ) algorithm sending ARQ messages as contended by the Office. For further details on how Gelman uses the ARQ algorithm, please see col. 5 lines 13-21 and col. 2 line 64-col.3 line 7. In summary, the ARQ algorithm is used to maintain

reliability by facilitating the retransmission of packets that were not properly received, it is not used to grant or deny access. By the time the ARQ algorithm is relevant, the packet has already been passed on at least once (i.e. access has already been granted).

In addition, as is pointed out by the Office, Gelman mentions firewalls. Although firewalls generally can be used to restrict access, nowhere does Gelman teach a firewall that is used as the gateway and access controlling web server in claim 1. Gelman does not disclose any type of server that is outside the direct path of communication between the source and the desired destination. Due to Gelman's failure to teach an external node outside of the direct path of communication, if a firewall is used in Gelman to grant or deny access, then the firewall must be on a server through which the direct communication passes (e.g. the destination gateway 16, an intermediate node between the client 10 and the source gateway 12, etc). Gelman's firewall would not respond back to the gateway. Instead, the server would make the decision to grant or deny access and then, if access were granted, transmit the packet itself to the destination server.

Claim 1 clearly teaches a gateway that is in the direct communications path between the source and the destination and an access controlling web server that is separate from the gateway and outside the direct communication path. The access controlling web server determines whether to grant or deny access based on a content request packet received from the gateway. The access controlling web server then sends a response back to the gateway, which the gateway uses to grant or deny access. Therefore, the access controlling web server and gateway of claim 1 are clearly not anticipated by any reference to a firewall in Gelman or disclosed anywhere else in Gelman.

In summary, it is respectfully submitted that claim 1 is not anticipated by Gelman since the reference fails to teach many of the claimed elements. Accordingly, it is respectfully requested that claim 1 be favorably reconsidered, and that the rejection thereof be withdrawn.

With respect to independent claims 17 and 33, these claims are said to be rejected for the same reasons as claim 1. Accordingly, the remarks above with respect to claim 1 are also relevant to claims 17 and 33. Claims 17 and 33 are patentable for the same reasons set forth with respect to claim 1. Accordingly, it is respectfully requested that claims 17 and 33 be favorably reconsidered, and that the rejections thereof be withdrawn.

With respect to the claims that depend from either of claims 1 and 17, it is respectfully submitted that such dependent claims are patentable for the same reasons as the respective parent claim. Moreover, each such claim recites additional limitations that are not taught by Gelman. Although it is not necessary to itemize the reasoning related to the dependent claims, some of these claims will nonetheless be briefly discussed herein to preserve all issues for appeal.

With respect to claims 2 and 18, the Office has failed to show that a response indicating that access is granted or denied is transmitted from an access controlling web server to a gateway, and therefore, cannot show that Gelman teaches establishing a connection between the client and destination if the response indicates that the resource is allowable.

With respect to claims 6, 13, 22, and 29, nowhere in the text cited by the Action is there any disclosure of the content request packet comprising a GET URL packet. In fact, the term GET URL cannot be found anywhere in the Gelman reference. Since there is no

mention of a GET URL packet in Gelman, this reference cannot possibly teach resending the GET URL packet to the destination server transparently with respect to the client machine. Nor would Gelman teach this since the packets in Gelman are not first forwarded by any sender to a node outside the direct path of communication.

With respect to claims 4, 5, 7-12, 14-16, 20, 21, 23-28, and 30-32, the Office has based its rejections on inherency. Applicants respectfully traverse these rejections because the Office has failed to meet its burden for rejecting these claims. Regarding rejections based upon inherency, MPEP § 2112(IV) states that:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) ... "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (emphasis added).

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (underline emphasis in original, bold emphasis added).

The Office has failed to provide a basis in fact and/or technical reasoning to show that the elements disclosed in any of these claims necessarily flows from the teachings of the applied prior art as required. In fact, there is no reasoning or indication that the elements even could flow from the applied prior art. For example, claims 4 and 20 are rejected by merely stating that, "Gelman discloses the response indicates that access to the desired resource is allowable if the access controlling web server does not recognize the URL of the GET URL packet as an inherent feature of authorization server." This conclusory statement does not give any basis in fact or technical reasoning to show that the allegedly inherent characteristic necessarily flows from the teachings of Gelman.

In re Appln. of Lamb et al.
Application No. 09/489,629

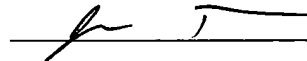
Accordingly, it is respectfully requested that claims 4, 5, 7-12, 14-16, 20, 21, 23-28, and 30-32 be favorably reconsidered, and that the rejections thereof be withdrawn.

For the above reasons, it is respectfully requested that the rejections of claims 1-33 under § 102 be reconsidered and withdrawn.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a further telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



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